

Translation

PATENT COOPERATION TREATY

PCT/EP2003/004647



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference M/42337-PCT	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/004647	International filing date (day/month/year) 02 May 2003 (02.05.2003)	Priority date (day/month/year) 03 May 2002 (03.05.2002)
International Patent Classification (IPC) or national classification and IPC A61K 7/06		
Applicant BASF AKTIENGESELLSCHAFT		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.  
☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).  
These annexes consist of a total of \_\_\_\_\_ sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 01 December 2003 (01.12.2003)	Date of completion of this report 17 August 2004 (17.08.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2003/004647

## I. Basis of the report

### 1. With regard to the elements of the international application:\*

☐ the international application as originally filed

☒ the description:  
 pages \_\_\_\_\_ 1-52 \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

☒ the claims:  
 pages \_\_\_\_\_ 1-23 \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, as amended (together with any statement under Article 19  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

☐ the drawings:  
 pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

☐ the sequence listing part of the description:  
 pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

### 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item. These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).  
☐ the language of publication of the international application (under Rule 48.3(b)).  
☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

### 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.  
☐ filed together with the international application in computer readable form.  
☐ furnished subsequently to this Authority in written form.  
☐ furnished subsequently to this Authority in computer readable form.  
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.  
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

### 4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_  
☐ the claims, Nos. \_\_\_\_\_  
☐ the drawings, sheets/fig \_\_\_\_\_

### 5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

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## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

### 1. Statement

Novelty (N)	Claims	1-23	YES
	Claims		NO
Inventive step (IS)	Claims	1-23	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-23	YES
	Claims		NO

### 2. Citations and explanations

Reference is made to the following documents:

D1: WO 01 62809 A (BASF AG; NGUYEN KIM SON (DE);  
WOOD CLAUDIA (DE)) 30 August 2001 (2001-08-30)  
D2: EP-A-1 002 811 (BASF AG) 24 May 2000  
(2000-05-24)

#### 1 - Novelty (PCT Article 33(2))

The subject matter of claims 1 to 23 is novel (PCT Article 33(2)):

- D1 discloses a cosmetic agent containing a water-soluble or water-dispersible copolymer comprising an ethylenically unsaturated amide-group-containing compound and a cosmetically acceptable carrier (cf. D1, page 4, line 36, to page 6, line 26; page 10, line 35, to page 12, line 39; claims 1 to 16).

- D2 describes a cosmetic agent containing a water-soluble or water-dispersible copolymer and a cosmetically acceptable carrier (cf. D2, page 3, line 50, to page 5, line 46; page 6, line 16, to page 7, line 51; claims 1 to 12).

Documents D1 and D2 do not describe any cosmetic agents containing a water-soluble or water-dispersible copolymer obtainable by radical copolymerization of 5 to 90 wt % - relative to the total weight of components a) to d) - acrylic acid amide and/or methacrylic acid amide, the constituent amount by weight of the sum of components b) and c) being at least 5 wt%.

**2 - Inventive step (PCT Article 33(1) and (3))**

- For the following reasons, the solution to the problem of interest proposed in claims 1 to 23 of the present application involves an inventive step (PCT Article 33(3)):

- D1, which is considered the closest prior art, discloses a cosmetic agent containing a water-soluble or water-dispersible copolymer comprising an ethylenically unsaturated amide-group-containing compound and a cosmetically acceptable carrier.

- The problem addressed by the present invention is that of preparing a cosmetic agent which has good properties for application purposes and can form adhesive-free, smooth films.

- According to the invention, this problem is solved by a cosmetic agent which contains at least one water-soluble copolymer which can be obtained by radical copolymerization of acrylic acid amide and/or methacrylic acid amide and further water-soluble,  $\alpha, \beta$ -ethylenically unsaturated compounds that can be copolymerized therewith, optionally in the presence of a water-soluble polymer graft basis (claim 1).

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- A combination of D1 and D2 would not lead to copolymers having the composition of copolymers A). In light of the disclosure in the citations, this result was not foreseeable. Therefore the claimed subject matter also involves an inventive step.

Consequently the subject matter of claims 1 to 23 involves an inventive step and hence meets the requirement of PCT Article 33(1) and (3).

**3 - Industrial applicability (PCT Article 33(4))**

- The subject matter of claims 1 to 23 is considered to have industrial applicability (PCT Article 33(4)).